

REMARKS/ARGUMENTS

I. Fees

If there are any additional fees due in respect to this amendment, please charge them to Deposit Account No. 13-2165. Authority is hereby given to charge any such deficiency, or credit any overpayment, to Deposit Account No. 13-2165 Mathews, Shepherd, McKay & Bruneau. The Examiner is invited to contact the undersigned if further information is required.

II. Notice of Non-Compliant Amendment 37 CFR 1.21

The Legal Instruments Examiner has indicated that Applicant's response of August 4, 2004 does not comply with the requirement of 37 C.F.R. § 1.121(h) because all of the claims were not presented. Applicant submits herewith a revised amendment in compliance with 37 C.F.R. § 1.121 with all claims presented. No new matter has been added.

III. Request for Continued Examination (RCE)

Applicant previously submitted a Request for Continued Examination under 37 CFR 1.114.

IV. 35 U.S.C. § 103(a)

It is the Examiner's opinion that claims 25-48 are unpatentable over Ishikawa et al. (US Patent No. 6,628,817) in view of Graves et al. (US Patent No. 5,410,344).

Applicant traverses the particular grounds for the rejections. However, in the interest of prosecutorial efficiency applicant has amended independent 25 to more clearly state the present invention.

Ishikawa teaches creating inspection data by evaluating a product and determining the specific type of defects. Ishikawa does **not** teach or suggest evaluating and determining the quality of the inspection data. Ishikawa does **not** teach or suggest accessing **independently created** digital data wherein a digital receiver dynamically evaluates the marked grade to determine suitability for subsequent use of the preexisting **independently created digital** data **without accessing the preexisting independently created digital data** whereby **another digital receiver can independently determine suitability from the marked grade for another subsequent use of the preexisting digital data without accessing the preexisting digital data.**

The applicant agrees with the Examiner that Ishikawa fails to disclose assigning a grade indicative of the quality, wherein the receiver dynamically accesses the marked grade to determine suitability for subsequent use.

Graves discloses selecting television programs based on program content and viewer preference. Graves discloses a system wherein a "viewer ranks the displayed programs from one to five". Graves data is created dependent on the viewer/user and is not applicable to a another independent user for another subsequent use.

In contrast to Ishikawa and Graves, the present invention claims a method for determining and signaling content quality of preexisting independently created digital data comprising: the steps of accessing the preexisting independently created digital data; assessing the quality of the content of the preexisting independently created digital data using one or more predefined sets of criteria; assigning a grade indicative of the quality of the content of the preexisting independently created digital data as a function of the one or more predefined sets of criteria; and, marking the preexisting independently created data with the assigned grade without changing the content of the preexisting independently created data; wherein a digital receiver dynamically evaluates the marked grade to determine suitability for subsequent use of the preexisting independently created digital data without accessing the preexisting independently created digital data whereby another digital receiver can independently determine suitability from the marked grade for another subsequent use of the preexisting digital data without accessing the preexisting digital data.

If we look at the disclosure of the present invention it may be easier to understand this distinction and what is being claimed. In particular when considering a City field

there may be certain constraints put on the field value. Examples include: greater than three characters; no backslash characters; no underscore characters; and, no space characters. This type of data filtering would be done prior to looking up the city name in a database for that zip code. There is the high possibility that the look up would fail, but all we could indicate would be "invalid value." It would be more informative for the root cause analysis if other characteristics of the value were identified that could assist in determining if this was a coding problem versus a user problem. Since data validation and monitoring also serves a diagnostic tool, the more explicit it can be in helping to root cause the issue would be a value add to the user. (see page 13)

The point that the grading is done to preexisting independently created data and that a subsequent receiver of the marked grade can dynamically evaluate the marked grade to determine

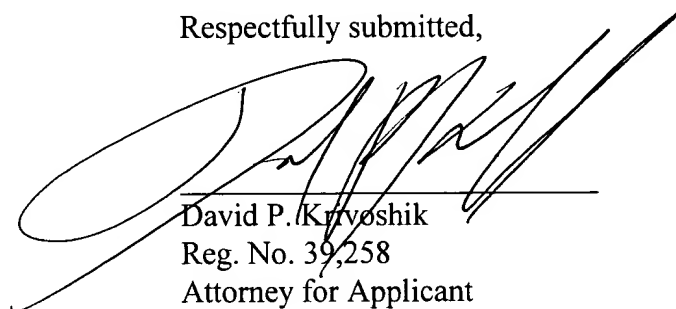
suitability for subsequent use of the preexisting independently created data *without accessing* the preexisting independently created data and that the suitability for a particular subsequent use is a function of the marked grade and the particular subsequent use is taught neither by Ishikawa nor by Graves.

As the Examiner has failed to make a prima facie case of anticipation based on the cited prior art, applicant respectfully requests withdrawal of the rejected under 35 USC 103(a).

V. Summary

By this amendment, applicant has amended the claims to more clearly state the present invention. Applicant believes that claims 25-48, the only remaining claims, are in condition for allowance. Should there remain any questions or other matters whose resolution may be advanced by a telephone call, the Examiner is cordially invited to contact the applicant's undersigned attorney at his number below.

Respectfully submitted,



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